



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

HOUSTON MEDICAL GROUP

Respondent Name

NEW HAMPSHIRE INSURANCE CO

MFDR Tracking Number

M4-17-2749-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

MAY 16, 2017

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: The requestor did not submit a position summary in the dispute packet.

Amount in Dispute: \$5,272.54

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "After further review, the Carrier is reimbursing the Provider \$971.63 for dates of service 10/9/15, 10/12/15(4), 6/20/16(2), 9/7/16(2), 11/28/16(2) and 1/16/17...Payment was issued on 6/16/17...There are other dates of service that were not considered as we did not have record of receiving the medical bills: 2/29/16, 3/16/16, 4/7/16, 5/10/16, 5/16/16, 6/14/16, 6/20/16, 7/26/16, 8/16/16, 8/23/16, 8/29/16, 9/20/16 and 3/13/17. If the Provider has documentation to support that these other dates of services were submitted, we request that the documentation be submitted to us for consideration for payment."

Response Submitted by: Commerce & Industry Insurance Co.

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
October 9, 2005	CPT Code 99204	\$382.97	Not eligible for review
October 12, 2015	CPT Code 72040	\$214.96	Not eligible for review
October 12, 2015	CPT Code 72100	\$219.39	Not eligible for review
October 12, 2015	CPT Code 71010	\$182.69	Not eligible for review
October 12, 2015	CPT Code 99213-25	\$165.10	Not eligible for review
February 29, 2016	CPT Code 99214	\$247.94	Not eligible for review

March 16, 2016 April 7, 2016	CPT Code 99213	\$203.20/ea	Not eligible for review
May 10, 2016	CPT Code 90837	\$177.86	Not eligible for review
May 16, 2016 June 14, 2016 October 18, 2016	CPT Code 90837	\$177.86/ea	\$177.86
May 16, 2016 June 20, 2016 August 29, 2016 September 7, 2016 October 26, 2016 November 28, 2016	CPT Code 99213	\$203.20 \$203.20 \$203.20 \$214.63 \$214.63 \$214.63	\$70.62
June 20, 2016 September 7, 2016 November 28, 2016	CPT Code 99080-73	\$15.00/ea	\$9.00
June 20, 2016	CPT Code 99214	\$322.32	\$34.69
July 26, 2016 August 16, 2016 August 23, 2016 September 20, 2016	CPT Code 90837	\$177.86/ea	Not eligible for review
January 16, 2017 March 13, 2017	CPT Code 99213	\$203.20/ea	\$143.84
TOTAL		\$5,272.54	\$436.01

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §133.305 sets out the procedure for Medical Fee Dispute Resolution.
3. 28 Texas Administrative Code §141.1 sets out the procedures for Requesting and Setting a Benefit Review Conference.
4. 28 Texas Administrative Code §134.204 sets out medical fee guidelines for workers' compensation specific services.
5. 28 Texas Administrative Code §133.20 sets the procedure and policy for healthcare providers submission of medical bills.
6. 28 Texas Administrative Code §134.203 sets out the reimbursement guidelines for professional services.
7. 28 Texas Administrative Code §129.5 sets out the procedure for reporting and billing work status reports.
8. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - X338-Service rendered does not relate to an accepted compensable injury or disease.
 - P12-Workers compensation jurisdictional fee schedule adjustment.
 - The benefit for this service is included in the payment/allowance for another service/procedure that has been performed on the same day.
 - Charge exceeds fee schedule/maximum allowable or contracted/legislated fee arrangement.
 - The charge for the procedure exceeds the amount indicated in the fee schedule.

- Additional payment made on appeal/reconsideration.
- Priced using Coventry owned contract.

Issues

1. Did the requestor waive the right to medical fee dispute resolution?
2. Does the medical fee dispute referenced above contain information/documentation to support that dates of service July 26, August 16, August 23, and September 20, 2016 contains unresolved issues of Compensability? Are disputed dates of service July 26, August 16 and 23, and September 20, 2016 eligible for review?
3. Does the submitted documentation support that a contractual agreement exists in this dispute? Is the requestor entitled to additional reimbursement for CPT code 99080-73?
4. Which disputed dates of service rendered from May 16, 2016 through March 13, 2017 are eligible for review?
5. What is the applicable fee guideline?
6. Was the requestor appropriately reimbursed for disputed services rendered from May 16, 2016 through March 13, 2017? Is the requestor entitled to reimbursement?

Findings

1. 28 Texas Administrative Code §133.307(c)(1) states: "Timeliness. A requestor shall timely file the request with the division's MFDR Section or waive the right to MFDR. The division shall deem a request to be filed on the date the MFDR Section receives the request. A decision by the MFDR Section that a request was not timely filed is not a dismissal and may be appealed pursuant to subsection (g) of this section. (A) A request for MFDR that does not involve issues identified in subparagraph (B) of this paragraph shall be filed no later than one year after the date(s) of service in dispute." The dates of service in dispute are October 9, 2015 through March 13, 2017. The request for medical dispute resolution was received in the Medical Fee Dispute Resolution (MFDR) section on May 16, 2017. This date is later than one year after the dates of service in dispute, October 9, 2015 through May 10, 2016. Review of the submitted documentation finds that the disputed services do not involve issues identified in §133.307(c)(1)(B). The Division concludes that the requestor has failed to timely file this dispute with the Division's MFDR Section; consequently, the requestor has waived the right to medical fee dispute resolution for dates of service October 9, 2015 through May 10, 2016.
2. The respondent denied reimbursement for CPT code 90837 rendered on July 26, August 16, August 23, and September 20, 2016 based upon "X338-Service rendered does not relate to an accepted compensable injury or disease." Review of the submitted documentation finds that the medical fee dispute referenced above contains unresolved issues of compensability for the same service(s) for which there is a medical fee dispute. The insurance carrier notified the requestor of such issues in its explanation of benefits (EOB) response(s) during the medical billing process.

28 Texas Administrative Code §133.305(b) requires that compensability-of-injury disputes be resolved prior to the submission of a medical fee dispute for the same services. 28 Texas Administrative Code §133.307(f) (3) (C) provides for dismissal of a medical fee dispute if the request for the medical fee dispute contains an unresolved compensability-of-injury dispute for the claim. 28 Texas Administrative Code §133.307(c) (2) (K) provides that a request for a medical fee dispute must contain a copy of each EOB related to the dispute. The Division finds that the dispute contains unresolved issues of Compensability. As a result, the dispute for services rendered July 26, August 16, August 23, and September 20, 2016 are not eligible for review by MFDR until final adjudication of the Compensability issues.

3. A review of the submitted explanation of benefits, finds that the respondent reduced payment for CPT code 99080-73 based upon "Priced using Coventry owned contract." No documentation was provided to support that a reimbursement rate was negotiated between the workers' compensation insurance carrier and the requestor prior to the services being rendered; therefore, the disputed services will be reviewed per the fee guideline found at 28 Texas Administrative Code §134.204 and 28 Texas Administrative Code §129.5.

CPT code 99080-73 is defined as "Special reports such as insurance forms, more than the information

conveyed in the usual medical communications or standard reporting form.”

28 Texas Administrative Code §134.204 (I) states “The following shall apply to Work Status Reports. When billing for a Work Status Report that is not conducted as a part of the examinations outlined in subsections (i) and (j) of this section, refer to §129.5 of this title (relating to Work Status Reports).”

28 Texas Administrative Code §129.5(i)(1) states “Notwithstanding any other provision of this title, a doctor may bill for, and a carrier shall reimburse, filing a complete Work Status Report required under this section or for providing a subsequent copy of a Work Status Report which was previously filed because the carrier, its agent, or the employer through its carrier, asks for an extra copy. The amount of reimbursement shall be \$15. A doctor shall not bill in excess of \$15 and shall not bill or be entitled to reimbursement for a Work Status Report which is not reimbursable under this section. Doctors are not required to submit a copy of the report being billed for with the bill if the report was previously provided. Doctors billing for Work Status Reports as permitted by this section shall do so as follows: (1) CPT code "99080" with modifier "73" shall be used when the doctor is billing for a report required under subsections (d)(1), (d)(2), and (f) of this section.”

The following Table reflects the division’s findings regarding CPT code 99080-73:

Date	Code	Mar	IC Paid	Amount Due
June 20, 2016 September 7, 2016 November 28, 2016	99080-73	\$15.00	\$12.00 X 3 = \$36.00	\$9.00

4. The respondent explained in the position summary that “There are other dates of service that were not considered as we did not have record of receiving the medical bills: 2/29/16, 3/16/16, 4/7/16, 5/10/16, 5/16/16, 6/14/16, 6/20/16, 7/26/16, 8/16/16, 8/23/16, 8/29/16, 9/20/16 and 3/13/17. If the Provider has documentation to support that these other dates of services were submitted, we request that the documentation be submitted to us for consideration for payment.”

To determine if these dates are eligible for review, the division refers to 28 Texas Administrative Code §133.307 and §133.250.

28 Texas Administrative Code §133.20(a) requires “The health care provider shall submit all medical bills to the insurance carrier except when billing the employer in accordance with subsection (j) of this section.”

28 Texas Administrative Code §133.250(i) states, “If the health care provider is dissatisfied with the insurance carrier's final action on a medical bill after reconsideration, the health care provider may request medical dispute resolution in accordance with the provisions of Chapter 133, Subchapter D of this title (relating to Dispute of Medical Bills).”

28 Texas Administrative Code §133.307(c)(2)(K) states, “Health Care Provider or Pharmacy Processing Agent Request. The requestor shall provide the following information and records with the request for MFDR in the form and manner prescribed by the division. The provider shall file the request with the MFDR Section by any mail service or personal delivery. The request shall include: (K) a paper copy of each explanation of benefits (EOB) related to the dispute as originally submitted to the health care provider in accordance with this chapter or, if no EOB was received, convincing documentation providing evidence of insurance carrier receipt of the request for an EOB.”

The following Table reflects the divisions' findings:

Date	Code	Divisions' Rationale
May 16, 2016 June 14, 2016 October 18, 2016	CPT Code 90837	May 16, 2016, and June 14, 2016 are not eligible for review because documentation does not sufficiently support that bills were submitted to insurance carrier for consideration prior to seeking medical fee dispute resolution. October 18, 2016 the requestor submitted fax reports that support bill was sent.
May 16, 2016 June 20, 2016 August 29, 2016 September 7, 2016 October 26, 2016 November 28, 2016	CPT Code 99213	May 16, 2016, June 20, 2016 and August 29, 2016 are not eligible for review because documentation does not sufficiently support that bills were submitted to insurance carrier for consideration prior to seeking medical fee dispute resolution. September 7, 2016, October 26, 2016 and November 28, 2016 are eligible for review because the respondent submitted explanation of benefits that show payment of \$94.15 was made for each date.
June 20, 2016	CPT Code 99214	The respondent submitted explanation of benefits that show payment of \$138.75 was made for this service.
January 16, 2017 March 13, 2017	CPT Code 99213	January 16, 2017 – The respondent submitted an explanation of benefits that supports \$95.90 was paid. March 13, 2017 the requestor submitted fax reports that support bill was sent.

5. The applicable fee guideline for the remaining disputed services is found at 28 Texas Administrative Code §134.203.
6. 28 Texas Administrative Code §134.203(a)(5) states, "Medicare payment policies" when used in this section, shall mean reimbursement methodologies, models, and values or weights including its coding, billing, and reporting payment policies as set forth in the Centers for Medicare and Medicaid Services (CMS) payment policies specific to Medicare."

Per 28 Texas Administrative Code §134.203(c)(1)(2), "To determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications.

(1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is \$52.83. For Surgery when performed in a facility setting, the established conversion factor to be applied is \$66.32.

(2) The conversion factors listed in paragraph (1) of this subsection shall be the conversion factors for calendar year 2008. Subsequent year's conversion factors shall be determined by applying the annual percentage adjustment of the Medicare Economic Index (MEI) to the previous year's conversion factors, and shall be effective January 1st of the new calendar year. The following hypothetical example illustrates this annual adjustment activity if the Division had been using this MEI annual percentage adjustment: The 2006 Division conversion factor of \$50.83 (with the exception of surgery) would have been multiplied by the 2007 MEI annual percentage increase of 2.1 percent, resulting in the \$51.90 (with the exception of surgery) Division conversion factor in 2007."

To determine the MAR the following formula is used: (DWC Conversion Factor/Medicare Conversion Factor) X Participating Amount = Maximum Allowable Reimbursement (MAR).

The 2016 DWC conversion factor for this service is 56.82

The 2017 DWC conversion factor for this service is 57.5

The 2016 Medicare Conversion Factor is 35.8043

The 2017 Medicare Conversion Factor is 35.8887

Review of Box 32 on the CMS-1500 the services were rendered in zip code 77004, which is located in Houston, Texas; therefore, the Medicare participating amount is based on locality "Houston, Texas".

Using the above formula the division finds the following:

Date	Code	Medicare Participating Amount	MAR	IC Paid	Amount Due
October 18, 2016	90837	\$130.14	\$206.53, Requestor billed lesser amount of \$177.86	\$0.00	\$177.86
September 7, 2016 October 26, 2016 November 28, 2016	99213	\$74.16	\$117.69 X =\$353.07	\$94.15 \$94.15 \$94.15 =\$282.45	\$70.62
January 16, 2017 March 13, 2017	99213	\$74.82	\$119.87	\$95.90 \$0.00	\$119.87 X 2 = \$239.74 minus \$95.90 = \$143.84
June 20, 2016	99214	\$109.29	\$173.44	\$138.75	\$34.69

Conclusion

For the reasons stated above, the Division finds that the requestor has established that reimbursement is due. As a result, the amount ordered is \$436.01.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$436.01 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

_____ Signature	_____ Medical Fee Dispute Resolution Officer	07/14/2017 _____ Date
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YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.